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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,266	02/11/2005	Ruediger Duwendag	P70231US0	4092
136	7590	10/16/2008	EXAMINER	
JACOBSON HOLMAN PLLC			DESAI, HEMANT	
400 SEVENTH STREET N.W.				
SUITE 600			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004			3721	
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			10/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/524,266	DUWENDAG ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Hemant M. Desai	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 July 2008.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 and 16-43 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 and 16-43 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "folding device" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13, 16-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boger et al. (4687137) in view of Pedigrew (5016812).

Boger, et al. discloses a device comprising a gluer having an application head (20, fig. 1) with a glue duct (20, fig. 1) in which the glue is exposed to a pressure that is higher than ambient pressure such that the glue is transported throughout the head, the application head including a plurality of valves (72, 72, 74, 76, 78, 80, fig. 1) each having at least one glue output orifice 92, fig. 2) through which the glue is directly applied to the folded bottom and/or the sheet, the valves being arranged in a configuration that includes at least a first valve row extending along a length of the application head in a direction that is transverse to a transfer direction for controlled and intermittent application of adhesive. Note that, the claim is written in an intended use form, it seems like applicant is claiming "A base insert device for making cross bottoms" along with "folding devices", while the body of the claim and the entire filed claims focusing on "gluing stations" with no recitations to as of how the folds done and/or how the base been inserted. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

*Ex Parte Masham*, 2USPQ2d 1647 (1987). It appears that Boger's adhesive dispensing apparatus is capable of dispensing whatever kind of glue as the claimed structure limitations been fully disclosed by Boger.

The device of Boger et al. discloses all the claimed limitations, except for two rows of valve row. However, Pedigrew teaches two rows of valve rows (fig. 1) for better distribution of adhesive (see col. 6, lines 62-69and col. 7, lines 1-13). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the gluer of Boger et al. with the two rows of valve rows as taught by Pedigrew for better distribution of adhesive.

Regarding claim 2, Boger et al. disclose that the glue application is performed between the glue output orifice and the sheet in a contact-free manner.

Regarding claim 3, the modified device of Boger et al., as mentioned above, teaches that the valve configuration includes a plurality of valve rows.

Regarding claim 4, the modified device of Boger et al. teaches that each of the first and second valve rows includes a plurality of valves.

Regarding claim 5, Boger et al. disclose that the valves include a plurality of glue output orifices (92).

Regarding claim 6, Boger disclose et al. disclose that the application head (20) has a plate-like form (see figs. 1-2).

Regarding claim 7, the modified bottoming device of Boger et al. teaches that each of the plurality of valve rows includes a plurality of valves.

Regarding claim 8, the modified bottoming device of Boger et al. teaches that the valves are provided on a side of the application head.

Regarding claim 9, Boger et al. discloses that a distance between adjacent orifices along the transverse direction is less than a breadth of each of the valves.

Regarding claim 10, the modified device of Boger et al. teaches that each of the valve rows is offset laterally in the transverse direction from an adjacent valve row (see fig. 2 of Pedigrew).

Regarding claim 11, Boger et al. disclose that the glue output orifices are located in one line extending along the length of the application head in the transverse direction (see fig. 1).

Regarding claim 12, Boger et al. disclose that the valves are supplied with the glue by at least one borehole or chamber (11, fig. 2) in the application head.

Regarding claim 13, Boger et al. disclose that the borehole or chamber extends substantially transverse to the bag transfer direction.

Regarding claims 16-19, the modified bottoming device of McDaniel meets all the limitations, except for making the gluing head adjustable. It would have been obvious one having ordinary skill in the art at the time of invention was made the glue head adjustable to change the glue pattern and for maintenance purpose, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

Regarding claim 23, the glue application head is supplying the glue to the nozzles under the pressure therefore it is inherent the reservoir has pressure relief and controller.

Regarding claims 20, 26-27, Boger et al. disclose that the at least one valve (74, 78) that provides at least one glue output orifice (54, 52) with glue can be controlled independent of the other valves, so that the application of the glue line produced from the at least one glue output orifice can be started and stopped selectively (see col. 9, lines 51-62).

Regarding claim 28, Boger et al. disclose the claimed invention except for at least 5 valves are provided. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide five valves, since Boger et al. disclose to provide four valves, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 30, Boger et al. disclose that the glue channels that transport the glue to a majority of valves (11) have a common cross-sectional area that is at least half as large as the sum of the cross-sectional areas of the glue output orifices that extrude this glue.

Regarding claim 32, Boger et al. disclose that the transfer direction of the glue to the valves more stoppers are provided with which the glue channels (36-38) can be sealed.

Regarding claims 33-35, Boger et al. disclose that the sealability of the glue channels is ensured by screws.

Regarding claims 36-37, the device discloses that at least one valve (70) that is active during the formation of a definite glue format opened or closed other points of time than the other valves (74) during the gluing.

Regarding claims 38-43, the modified bottoming device of Boger et al., as mentioned above, meets all the claimed limitations of claims.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-13, 16-43 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 7/16/2008 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, note that the bag apparatus only mentioned on the preamble of the claim, which is not given much patentable weight, while the nature of the glue as being starch is not mentioned on the examined claims. Further, any glue has some viscosity to it even if it was a melt glue as been disclosed and argued about in the applied reference '137. The examiner maintains that regardless to the different intention of using the apparatus of the pending invention in compare to the one been disclosed by the applied reference does not make a difference as long as the limitations of the claimed invention been disclosed in the applied art, the use of the machine is nothing more than an indented use. In response to Applicant's argument regarding the use of starch glue, note that the claimed structure limitations been fully disclosed by

Boger, therefore it appears that Boger's adhesive dispensing apparatus is capable of dispensing starch glue as claimed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hemant M Desai/  
Primary Examiner, Art Unit 3721